



# Senate

General Assembly

**File No. 185**

February Session, 2022

Substitute Senate Bill No. 331

*Senate, March 29, 2022*

The Committee on Public Health reported through SEN. DAUGHERTY ABRAMS of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE PROVISION OF DEVELOPMENTAL SERVICES AND MENTAL AND BEHAVIORAL HEALTH SERVICES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1      Section 1. (*Effective from passage*) The Commissioner of  
2      Developmental Services shall develop a strategic plan to reduce the wait  
3      time for services provided by the Department of Developmental  
4      Services to persons with intellectual disability. Not later than January 1,  
5      2023, the Commissioner of Developmental Services shall submit such  
6      plan and any recommendations for legislation necessary to implement  
7      such plan, in accordance with the provisions of section 11-4a of the  
8      general statutes, to the joint standing committee of the General  
9      Assembly having cognizance of matters relating to public health.

10     Sec. 2. (NEW) (*Effective October 1, 2022*) Notwithstanding any  
11     provision of the general statutes, on and after October 1, 2022, the  
12     Secretary of the Office of Policy and Management shall consult with all  
13     relevant stakeholders before implementing any plan to close a facility

14 operated by the Department of Developmental Services.

15 Sec. 3. (NEW) (*Effective October 1, 2022*) Notwithstanding any  
16 provision of the general statutes, the Commissioner of Developmental  
17 Services shall provide notice to each person with intellectual disability  
18 or such person's legal representative, before such person's eligibility to  
19 receive state-assisted care ends. As used in this section, "legal  
20 representative" has the same meaning as provided in section 17b-450 of  
21 the general statutes.

22 Sec. 4. (*Effective from passage*) (a) There is established a task force to  
23 study the Department of Developmental Services' level of need  
24 assessment system. Such study shall include, but need not be limited to,  
25 (1) an examination of the instrument, policies, procedures, training and  
26 education materials related to the department's level of need assessment  
27 system and the diverse behavioral and medical issues assessed by such  
28 system, and (2) the development of recommendations for improvement  
29 and greater consistency in the administration and results of such  
30 system.

31 (b) The task force shall consist of the following members:

32 (1) Two appointed by the speaker of the House of Representatives;

33 (2) Two appointed by the president pro tempore of the Senate;

34 (3) One appointed by the majority leader of the House of  
35 Representatives;

36 (4) One appointed by the majority leader of the Senate;

37 (5) One appointed by the minority leader of the House of  
38 Representatives;

39 (6) One appointed by the minority leader of the Senate; and

40 (7) The Commissioner of Developmental Services, or the  
41 commissioner's designee.

42 (c) Any member of the task force appointed under subdivision (1),  
43 (2), (3), (4), (5) or (6) of subsection (b) of this section may be a member  
44 of the General Assembly.

45 (d) All initial appointments to the task force shall be made not later  
46 than thirty days after the effective date of this section. Any vacancy shall  
47 be filled by the appointing authority.

48 (e) The speaker of the House of Representatives and the president pro  
49 tempore of the Senate shall select the chairpersons of the task force from  
50 among the members of the task force. Such chairpersons shall schedule  
51 the first meeting of the task force, which shall be held not later than sixty  
52 days after the effective date of this section.

53 (f) The administrative staff of the joint standing committee of the  
54 General Assembly having cognizance of matters relating to public  
55 health shall serve as administrative staff of the task force.

56 (g) Not later than January 1, 2023, the task force shall submit a report  
57 on its findings and recommendations to the joint standing committee of  
58 the General Assembly having cognizance of matters relating to public  
59 health, in accordance with the provisions of section 11-4a of the general  
60 statutes. The task force shall terminate on the date that it submits such  
61 report or January 1, 2023, whichever is later.

62 Sec. 5. (NEW) (*Effective October 1, 2022*) The Commissioner of Social  
63 Services may contract with one or more hospitals and one or more  
64 nonprofit organizations to provide social services and referrals for social  
65 services to frequent users of hospital services, including, but not limited  
66 to, emergency department services. Subject to approval by applicable  
67 federal authority, the Department of Social Services shall utilize the  
68 provider network and billing system of the contracted hospitals and  
69 nonprofit organizations in the provision of such services and referrals.  
70 In order to implement the provisions of this section, the commissioner  
71 may establish rates of payment to providers of social services under this  
72 section if the establishment of such rates is required to ensure that any  
73 contract entered into with a hospital or nonprofit organization pursuant

74 to this section is cost neutral to such providers in the aggregate and  
75 ensures patient access. Utilization may be a factor in determining cost  
76 neutrality. As used in this section, "hospital" means an establishment  
77 licensed pursuant to chapter 368v of the general statutes for lodging,  
78 care and treatment of persons suffering from disease or other abnormal  
79 physical or mental conditions.

80 Sec. 6. (NEW) (*Effective from passage*) On and after October 1, 2022,  
81 each physician licensed pursuant to chapter 370 of the general statutes,  
82 physician assistant licensed pursuant to chapter 370 of the general  
83 statutes and advanced practice registered nurse licensed pursuant to  
84 chapter 378 of the general statutes shall conduct a mental health  
85 examination of a patient during the physician's, physician assistant's or  
86 advanced practice registered nurse's annual physical examination of the  
87 patient.

88 Sec. 7. Subsection (a) of section 38a-510 of the general statutes is  
89 repealed and the following is substituted in lieu thereof (*Effective January*  
90 *1, 2023*):

91 (a) No insurance company, hospital service corporation, medical  
92 service corporation, health care center or other entity delivering, issuing  
93 for delivery, renewing, amending or continuing an individual health  
94 insurance policy or contract that provides coverage for prescription  
95 drugs may:

96 (1) Require any person covered under such policy or contract to  
97 obtain prescription drugs from a mail order pharmacy as a condition of  
98 obtaining benefits for such drugs; or

99 (2) Require, if such insurance company, hospital service corporation,  
100 medical service corporation, health care center or other entity uses step  
101 therapy for such drugs, the use of step therapy for:

102 (A) [any] Any prescribed drug for longer than sixty days; [,] or

103 (B) [a] A prescribed drug for [cancer] treatment of a behavioral health  
104 condition or for an insured who has been diagnosed with stage IV

105 metastatic cancer, provided such prescribed drug is in compliance with  
106 approved federal Food and Drug Administration indications.

107 (3) At the expiration of the time period specified in subparagraph (A)  
108 of subdivision (2) of this subsection or for a prescribed drug described  
109 in subparagraph (B) of subdivision (2) of this subsection, an insured's  
110 treating health care provider may deem such step therapy drug regimen  
111 clinically ineffective for the insured, at which time the insurance  
112 company, hospital service corporation, medical service corporation,  
113 health care center or other entity shall authorize dispensation of and  
114 coverage for the drug prescribed by the insured's treating health care  
115 provider, provided such drug is a covered drug under such policy or  
116 contract. If such provider does not deem such step therapy drug  
117 regimen clinically ineffective or has not requested an override pursuant  
118 to subdivision (1) of subsection (b) of this section, such drug regimen  
119 may be continued. For purposes of this section, "step therapy" means a  
120 protocol or program that establishes the specific sequence in which  
121 prescription drugs for a specified medical condition are to be prescribed.

122 Sec. 8. Subsection (a) of section 38a-544 of the general statutes is  
123 repealed and the following is substituted in lieu thereof (*Effective January*  
124 *1, 2023*):

125 (a) No insurance company, hospital service corporation, medical  
126 service corporation, health care center or other entity delivering, issuing  
127 for delivery, renewing, amending or continuing a group health  
128 insurance policy or contract that provides coverage for prescription  
129 drugs may:

130 (1) Require any person covered under such policy or contract to  
131 obtain prescription drugs from a mail order pharmacy as a condition of  
132 obtaining benefits for such drugs; or

133 (2) Require, if such insurance company, hospital service corporation,  
134 medical service corporation, health care center or other entity uses step  
135 therapy for such drugs, the use of step therapy for:

136 (A) [any] Any prescribed drug for longer than sixty days; [,] or

137 (B) [a] A prescribed drug for [cancer] treatment of a behavioral health  
 138 condition or for an insured who has been diagnosed with stage IV  
 139 metastatic cancer, provided such prescribed drug is in compliance with  
 140 approved federal Food and Drug Administration indications.

141 (3) At the expiration of the time period specified in subparagraph (A)  
 142 of subdivision (2) of this subsection or for a prescribed drug described  
 143 in subparagraph (B) of subdivision (2) of this subsection, an insured's  
 144 treating health care provider may deem such step therapy drug regimen  
 145 clinically ineffective for the insured, at which time the insurance  
 146 company, hospital service corporation, medical service corporation,  
 147 health care center or other entity shall authorize dispensation of and  
 148 coverage for the drug prescribed by the insured's treating health care  
 149 provider, provided such drug is a covered drug under such policy or  
 150 contract. If such provider does not deem such step therapy drug  
 151 regimen clinically ineffective or has not requested an override pursuant  
 152 to subdivision (1) of subsection (b) of this section, such drug regimen  
 153 may be continued. For purposes of this section, "step therapy" means a  
 154 protocol or program that establishes the specific sequence in which  
 155 prescription drugs for a specified medical condition are to be prescribed.

156 Sec. 9. Subdivision (8) of section 20-74s of the general statutes is  
 157 repealed and the following is substituted in lieu thereof (*Effective from*  
 158 *passage*):

159 (8) "Substance use disorder" means a disease in which the recurrent  
 160 use of alcohol or drugs that leads to clinically and functionally  
 161 significant impairment, including, but not limited to, health problems,  
 162 disability and failure to meet major responsibilities at work, school or  
 163 home; and

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

Sec. 2	<i>October 1, 2022</i>	New section
Sec. 3	<i>October 1, 2022</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>October 1, 2022</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>January 1, 2023</i>	38a-510(a)
Sec. 8	<i>January 1, 2023</i>	38a-544(a)
Sec. 9	<i>from passage</i>	20-74s(8)

***Statement of Legislative Commissioners:***

In Section 1, "(NEW)" was deleted for consistency with the general statutes.

***PH***        *Joint Favorable Subst. -LCO*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

## **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 23 \$</b>	<b>FY 24 \$</b>
Various Municipalities	STATE MANDATE <sup>1</sup> - Cost	See Below	See Below

## **Explanation**

Sections 7 and 8 of the bill prohibits insurers who provide prescription drug coverage from requiring the use of step therapy to treat a behavioral health condition. The group health provisions of Section 8 will increase costs to certain fully insured municipal plans which currently require step therapy for conditions specified in the bill. The coverage requirements will result in increased premium costs when municipalities enter new health insurance contracts after January 1, 2023.

The insurance change in Section 8 does not result in a fiscal impact to the state employee and retiree health plan or municipalities that participate in the Partnership Plan as step therapy is not required by the plans.

The bill also makes various changes that do not result in a fiscal

<sup>1</sup> State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.



impact including the following:

Sections 1- 3 makes changes related to the Department of Developmental Services (DDS) statutes and the Office of Policy and Management (OPM) statutes related to DDS-operated facilities, that are not anticipated to have any fiscal impact to the state or municipalities as DDS and OPM have the expertise to undertake the requirements.

Section 4 establishes a nine-member task force to study the DDS level of need assessment system and requires the task force to report its findings and recommendations to the Public Health Committee. This provision This provision has no fiscal impact as PA 17-236 prohibits transportation allowances for task force members.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****SB 331*****AN ACT CONCERNING THE PROVISION OF DEVELOPMENTAL SERVICES AND MENTAL AND BEHAVIORAL HEALTH SERVICES.*****SUMMARY**

This bill makes various changes affecting developmental, social, and behavioral health services. Specifically, it:

1. requires the Department of Developmental Services (DDS) commissioner to develop a strategic plan to reduce the wait time for DDS services and submit the plan, and any related legislative recommendations, to the Public Health Committee by January 1, 2023 (§ 1);
2. starting October 1, 2022, requires the Office of Policy and Management (OPM) secretary, notwithstanding existing laws, to consult with all relevant stakeholders before implementing any plan to close a DDS-operated facility (§ 2);
3. requires the DDS commissioner, notwithstanding existing law, to notify individuals with intellectual disability, or their legal representatives, before their eligibility for state assistance ends (§ 3);
4. establishes a nine-member task force to study the DDS level of need assessment system and requires the task force to report its findings and recommendations to the Public Health Committee by January 1, 2023 (§ 4);
5. permits the Department of Social Services (DSS) commissioner to contract with a hospital or nonprofit organization to provide social services and referrals to frequent users of hospitals services (e.g., emergency department services) (§ 5);

6. starting October 1, 2022, requires physicians, physician assistants, and advanced practice registered nurses to conduct a mental health examination of a patient during the patient's annual physical examination (§ 6);
7. prohibits insurers who provide prescription drug coverage from requiring the use of step therapy to treat a behavioral health condition (§§ 7 & 8); and
8. specifies that substance use disorder is a disease in the alcohol and drug counselor licensure and certification laws (§ 9).

EFFECTIVE DATE: Upon passage, except that provisions on (1) DDS facility closures, notification requirements for DDS service recipients, and DSS referrals to frequent hospital service users take effect October 1, 2022, and (2) step therapy take effect January 1, 2023.

#### **§ 4 – DDS LEVEL OF NEED TASK FORCE**

##### ***Duties***

The bill establishes a nine-member task force to study the DDS level of need (LON) assessment system. The study must include:

1. an examination of the instrument, policies, procedures, training, and education materials related to the LON assessment system and the diverse behavioral and medical issues the system assesses and
2. recommendations for improvement and greater consistency in the system's administration and results.

##### ***Membership***

Under the bill, task force members include:

1. two members each appointed by the Senate president pro tempore and House speaker;
2. one member each appointed by the House and Senate majority and minority leaders; and

3. the DDS commissioner, or her designee.

Under the bill, appointing authorities must make initial appointments within 30 days after the bill takes effect and fill any vacancies. Appointed task force members may be legislators.

### ***Meetings and Leadership***

The bill requires the Senate president pro tempore and House speaker to select the task force chairpersons from among its members. The chairpersons must schedule the first task force meeting within 60 days after the bill takes effect.

Under the bill, the Public Health Committee administrative staff serve as the task force's administrative staff.

### ***Report***

The bill requires the task force to report its findings and recommendations to the Public Health Committee by January 1, 2023, and terminates on that date or the date it submits its report, whichever is later.

## **§ 5 – DSS REFERRALS FOR CERTAIN HOSPITAL SERVICE USERS**

The bill permits the DSS commissioner to contract with hospitals and nonprofit organizations to provide social services and referrals to frequent users of hospital services (e.g., emergency department services). Subject to federal approval, DSS must use the provider networks and billing systems of these hospitals and organizations in doing so.

The bill also allows the commissioner to set payment rates to social service providers if it is required to ensure that any contract entered into (1) is cost neutral to these providers in the aggregate and (2) ensures patient access to the services and referrals. It specifies that the commissioner may consider utilization when determining a contract's cost neutrality.

## **§§ 7 & 8 – STEP THERAPY FOR BEHAVIORAL HEALTH CONDITIONS**

The bill prohibits individual and group health insurance policies from requiring the use of step therapy for drugs prescribed to treat covered individuals with mental or behavioral health conditions, provided the drugs comply with approved Federal Drug Administration indications. (Step therapy establishes a sequence for prescribing drugs for specific medical conditions that generally requires patients to try less expensive drugs before higher cost drugs.)

The bill applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued by an insurer, hospital or medical service corporation, HMO, or other entity that provides prescription drug coverage.

#### **§ 9 – SUBSTANCE USE DISORDER DEFINITION**

By law, licensed or certified alcohol and drug counselors work with individuals with substance use disorders and co-occurring disorders. Current law defines “substance use disorder” as the recurrent use of alcohol or drugs that leads to clinically and functionally significant impairment (e.g., health problems, disability, and failure to meet responsibilities). The bill specifies that a substance use disorder is a disease.

#### **COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea    29    Nay    2    (03/16/2022)